IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 27621 of 2007(L)

EP.226/2006 of MUNI-MAGI.COURT,PERINTHALMANNA
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PETITIONER:

P.SUNDHARAN, S/O RAMAN,
PANNIKUNNATH HOUSE, ALIPPARAMBA POST,
ANAMANGAD, MALAPPURAM DISTRICT.

BY ADV. SRI.JOSEPH SEBASTIAN PURAYIDAM
SMT.MABLE.C.KURIAN

RESPONDENTS:
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1. PERINTHALMANNA TALUK RURAL HOUSING
CO-OPERATIVE SOCIETY LIMITED NO.M 270,
PERINTHALMANNA, MALAPPURAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
SCHEDULED CASTE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.27621 of 2007

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Dated this the 17th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to direct the Executing Court not to deliver the property and permit the writ petitioner to pay the amount in instalments. A perusal of the Writ Petition would show that the award was passed by the A.R.C. Court under the Co-operative Societies Act, which was sent for execution before the civil court and the civil court ordered sale of the property, which was sold, confirmed, sale certificate issued and now it is pending delivery of the property. At this stage, the judgment debtor has approached this Court with a prayer to permit him to pay the amount in instalment as his son is employed in Gulf Countries and thus save him from the peril of losing his residential property.

2. It has to be stated that under the method known to law, there cannot be any direction by this Court at this stage not to have the sale implemented, but at the same time, the decree

holder being a Co-operative Bank can always show leniency if it receives the amount from the party, who is bound to pay it.

3. Therefore, I dispose of the Writ Petition directing the writ petitioner to approach the decree holder - Bank with a prayer to re-convey the property with an undertaking that he will pay the entire amount within a stipulated time including the expenses for the sale and the discount contemplated under Order 21 Rule 89(5) of Code of Civil Procedure. The Bank may consider it sympathetically considering the poor situation of a litigant, who is about to be deprived of his residential house and pass appropriate orders.

4. In order to enable the writ petitioner to move an application before the Bank for consideration, I direct the court below to defer the delivery of the property for a period of six weeks and further give liberty to the court below to extent the time for delivery of the property if the decree holder so consents for a settlement of the matter.

M.N.Krishnan,
Judge.

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